

Remarks

Claims 1-34 are currently pending and stand rejected under 35 USC §103(a). Claims 3, 8, 13, 17 and 26 have been amended. No new claims have been added and no new matter has been included. Applicants assert that all claims are now in condition for allowance as set forth more fully below.

112 Rejection

Claims 3, 8, 17 and 26 has been rejected under 35 USC §112, second paragraph for failing to point out and distinctly claim the subject matter which the applicant regards as his invention. Claims 3, 8, 17 and 26 have been amended to delete the phrase “no other substantial use” and insert the term “primary function” to make the claims more definite. As such, the 35 USC §112 rejections can now be withdrawn.

103 Rejections

Claims 1-34 stand rejected under 35 USC §103(a) as being unpatentable over Hall (US Pat. 6,026,375) in view of Pong (US Patent 6,237,647). Applicants respectfully traverse these rejections.

The Office Action states that Hall teaches all the limitations of the claims. The Office Action concedes, however, that Hall does not teach or suggest including the make and model of the vehicle **on the order** for customer identification. Applicants concur with the concession but do not concede that Hall teaches the remaining asserted subject matter and respectfully request that there be provided a reference, supported by adequate motivation for combining with hall, that discloses the providing of a menu feature of which the Examiner has taken Official Notice of on page 3 of the Office Action.

The Office Action then asserts that Pong teaches the step of using the make and model of the vehicle as identifying information for the vehicle and a customer account number is used to identify the customer. (Page 3). The Office Action fails to even assert that Pong teaches the feature of including the make and model of the vehicle **on the order** as recited in independent claims 1, 6, 13 and 22. All claimed limitations must be taught or suggested by the prior art to establish prima facie obviousness. MPEP 2143.03.

Independent claims 1, 6, 13 and 22 each include similar recitations not taught or suggested by Hall or Pong either individually or in combination. As a representative sample independent claim 1 recites “A method of sending a remote order by a customer to a business, ...the order comprises information associated by the receiver with a make and model of vehicle from which the order is transmitted”. Pong does not teach a customer order comprising information concerning the make and model of the vehicle from which the order was transmitted. Pong teaches that the make and model information is taken upon registering with the vendor at some time in the remote past. (Col. 6, l. 42-45). Pong also teaches that purchase preferences are retrieved from a database but not in association with an order that is being transmitted along with make and model information. (Col. 6, l. 60-Col.7, l.10, Fig. 1a, item 114). Recording purchase preferences in a database is not placing an order for a current transaction.

Pong also teaches that the make and model information is read by a receiver as the vehicle drives into the gas station. Such reading occurs prior to any kind of order being placed by the customer. As such, Pong fails to teach both a **transmission** and an order. Furthermore, the make and model information is used to merely inform the station of the vehicle owner’s ID, the dimensions of the vehicle and the location of its fuel cap (Col. 1, l 50-58; Col. 4, l 62-63; Col. 6, l. 45-55). Pong explicitly teaches that convenience store merchandise is selected **after** the make and model information has been read remotely and the customer identified. (Col. 5, L. 6-10; Col. 7, l. 1-10; Figures 1a item 119 and 1c item 146).

While Applicants do not concede that there is motivation to combine Hall with Pong, even if there was such motivation, the combination of Hall and Pong do not teach or suggest all of the elements of the claims. Therefore independent claims 1, 6, 13 and 22 are allowable for at least these reasons. Dependent claims 2-5, 7-12, 14-21 and 23-34 depend from allowable claims 1, 6, 13 and 22 and are also allowable for at least the same reasons.

Conclusion

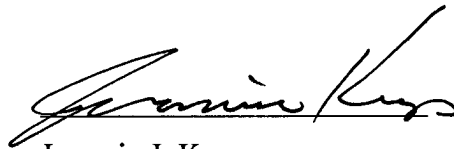
Claims 1-34 are pending. Claims 3, 8, 13, 17 and 26 have been amended. No new subject matter has been added. Applicants request that the rejections be withdrawn based

on the remarks above and further request that a Notice of Allowability be provided.
Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit
any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: October 12, 2005

A handwritten signature in black ink, appearing to read "Jeramie J. Keys", written over a horizontal line.

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